July 31, 2007

VIA FACSIMILE

7/31/07
Application denied.
Conference remains scheduled based upon the stage of consent.
So Ordered
USMJ

Honorable Michael L. Orenstein, U.S.M.J.
United States District Court
Eastern District of New York
Long Island Courthouse
100 Federal Plaza
Central Islip, NY 11722-4438

Re: S&L Vitamins v. Australian Gold
05-CV-1217(JS)(MLO)

Dear Magistrate Judge Orenstein:

We represent S & L Vitamins and Larry Sagarin in the above-captioned matter. We write regarding the pending status conference scheduled for this Thursday, August 2nd at 11 AM.

The status of the case is that the cross motions for summary judgment submitted by the parties are still pending before Judge Seybert. Our intention had been to request, in light of this fact, an adjournment of the status conference. Counsel for Australian Gold, however, has informed us today that it will not consent to this request on the grounds that it intends at the status conference to ask the Court, in short, to reopen discovery.

We do not write to ask the Court to pass on this matter in deciding whether to adjourn the status conference. The "status" is, as reported above, exactly the same as it has been since the filing of this action. We write, rather, to urge that defendants' desired course of action, to which our clients object strenuously, is properly the subject of a formal motion. It is not a "topic" for a status conference to be sprung on my client –

without submission of legal argumentation or proof of a bona fide factual basis on which to request this extraordinary relief – two days before the conference.

If defendants intend to convert this status conference into a pre-motion conference, we insist that they comply with Local Rule 37.3(c) and any other applicable rules and make a formal submission that we can consider and rebut if necessary. Considering the likelihood that defendants will do so, we reiterate our request for adjournment of the status in light of the likelihood of our likely need to come together soon after a proper submission of papers.

Respectfully submitted,

Ronald D. Coleman

cc: Francis J. Early, Esq. (facsimile)
Scott Matthews, Esq. (facsimile)